

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
Fort Worth DIVISION

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| U.S. DISTRICT COURT DISTRICT OF TEXAS FILED MAY 20 2019 CLERK, U.S. DISTRICT COURT By _____ Deputy |
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Form To Be Used By A Prisoner in Filing a Complaint
Under the Civil Rights Act, 42 U.S.C. § 1983

NICHOLAS PAUL FEARER #0898434
Plaintiff's name and ID Number

TARRANT COUNTY JAIL (100 N. LAMAR ST. FORT WORTH, TX 76196)
Place of Confinement

CASE NO. 4:19-cv-415-O
(Clerk will assign the number)

v.
SHERIFF BILL WAY BORN and Tarrant County Sheriff Department
200 TAYLOR STREET FORT WORTH, TX 76196
Defendant's name and address

JOHN DOE OFFICER
100 N. LAMAR ST. FORT WORTH, TX 76196
Defendant's name and address

TARRANT COUNTY JAIL
100 N. LAMAR ST. FORT WORTH, TX 76196
Defendant's name and address
(DO NOT USE "ET AL.")

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the Clerk of the United States Court for the appropriate District of Texas in the Division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. The list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate District Court, the Division and an address list of the Divisional Clerks.

FILING FEE AND IN FORMA PAUPERIS

1. In order for your complaint to be filed, it must be accompanied by the filing fee of \$250.00.

2. If you do not have the necessary funds to pay the filing fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis* (IFP), setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six (6) month history of your Inmate Trust Account. You can acquire the application to proceed IFP and appropriate Inmate Account Certificate from the law library at your prison unit.

3.28 U.S.C. 1915, as amended by the Prison Litigation Reform Act of 1995 (PLRA), provides, "...if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." Thus, the Court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the Court will apply 28 U.S.C. 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your Inmate Account, until the entire \$250 filing fee has been paid.

4. If you intend to seek *in forma pauperis* status, then do not send your complaint without an Application to Proceed IFP, and the Certificate of Inmate Trust Account. Complete all the essential paperwork before submitting it to the Court.

CHANGE OF ADDRESS

It is your responsibility to inform the Court of any change of address and its effective date. Such notice should be marked "NOTICE TO THE COURT OF CHANGE OF ADDRESS" and shall not include any motion (s) for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

A. Have you filed *any* other lawsuits in state or federal court relating to your imprisonment? YES ☐ NO ☒

B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)

1. Approximate date of filing lawsuit: _____

2. Parties to previous lawsuit:

Plaintiff(s) _____

Defendant(s) _____

3. Court: (If federal, name the district; if state, name the county.) _____

4. Docket Number: _____

5. Name of judge to whom case was assigned: _____

6. Disposition: (Was the case dismissed, appealed, still pending?) _____

7. Approximate date of disposition: _____

II. PLACE OF PRESENT CONFINEMENT: TARRANT COUNTY JAIL

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted both steps of the grievance procedure in this institution?

☒ YES ☐ NO

Attach a copy of the Step 2 grievance with the response supplied by the prison system.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: NICHOLAS PAUL FEARER (CID: 0898434/59A)
100 NORTH LAMAR ST
FORT WORTH, TX 76196

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: TARRANT COUNTY JAIL
100 N. LAMAR ST FORT WORTH, TX 76196

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

FAILURE TO PROVIDE ADEQUATE MEDICAL/MENTAL CARE

Defendant #2: "JOHN DOE" OFFICER - OFFICER AT TARRANT
COUNTY JAIL 100 N. LAMAR ST FORT WORTH, TX 76196

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

VIOLATION OF CIVIL RIGHTS

Defendant #3: SHERIFF BILL WAYBORN - WARDEN OF TARRANT COUNTY
JAIL 200 TAYLOR STREET FORT WORTH, TX 76196

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

IMPROPER TRAINING OF STAFF AND LACK OF INVOLVEMENT TO
INCIDENT.

Defendant #4: _____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #5: _____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember that the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

ON OR APPROXIMATELY AROUND MARCH 29TH, 2019, I WAS ATTACKED BY AN OFFICER WORKING 3RD SHIFT AT THE TARRANT COUNTY CORRECTIONS CENTER, ON THE 5TH (MEDICAL) FLOOR OF 100 N. LAMAR ST FORT WORTH, TX. 76196. THOUGH I AM UNAWARE OF THE OFFICER'S NAME, THE JAIL IS AWARE. IT IS SAID THE OFFICER HAS BEEN FIRED AND PER MY REQUEST CRIMINAL CHARGES HAVE BEEN FILED. AROUND 12:00 AM I WAS MOVED TO A SUICIDE PREVENTION CELL AND OUT OF ANGER SPLASHED A VERY SMALL AMOUNT OF H2O ON FLOOR CAUSING OFFICER TO BECOME UPSET, ENTERED CELL AS I SAT STATIONARY THEN PROCEEDED TO PUNCH ME THREE OR MORE TIMES THAT I CAN REMEMBER AS TWO OTHER OFFICERS WATCHED. I MADE NO MOTION TOWARD OFFICER TO SIGNAL THREAT. RECORD OF INCIDENT ON FILE WITH CRIMINAL INVESTIGATIONS UNIT.

VI. RELIEF: State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

RELIEVE ME OF CURRENT JAIL SENTENCE SO THAT I CAN RECEIVE PROPER MEDICAL/MENTAL HELP, PURSUE CHARGES AGAINST SUCH OFFICER AND FACILITY/SHERIFF DEPARTMENT TO COVER SUCH EXPENSES AND

VII. GENERAL BACKGROUND INFORMATION: ENSURE PUNITIVE DAMAGES PAID

A. State, in complete form, all names you have ever used or been known by including any and all aliases:

"NICK"

B. List all TDCJ-ID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you, if known to you.

#0898434 - TARRANT COUNTY JAIL

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES ☒ NO

B. If your answer is "yes", give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): _____

2. Case Number: _____

3. Approximate date sanctions were imposed: _____

4. Have the sanctions been lifted or otherwise satisfied? YES NO

C. Has any court ever warned or notified you that sanctions could be imposed? _____ YES ☒ NO

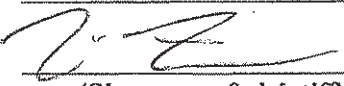
D. If your answer is "yes", give the following information for every lawsuit in which warning was imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed warning (if federal, give the district and division): _____

2. Case Number: _____

3. Approximate date warnings were imposed: _____


Executed on: 12-05-2019
DATE

NICHOLAS PAUL FEARER

(Signature of plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand if I am released or transferred, it is my responsibility to keep the Court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand that I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions in a Court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire \$250 filing fee and costs assessed by the Court, which shall be deducted in accordance with the law from my inmate account by my custodian until the filing fee is paid.

Signed this SUNDAY, 12th day of MAY, 2019.
(Day) (month) (year)

NICHOLAS PAUL FEARER

(Signature of plaintiff)

WARNING: The Plaintiff is hereby advised any false or deliberately misleading information provided in response to the following questions will result in the imposition of sanctions. The sanctions the Court may impose include, but are not limited to monetary sanctions and/or the dismissal of this action with prejudice.

Tarrant County Sheriff's Office

Grievance Response Form

| | | | | |
|----------------|-----------------------|--------------------|-------------------|-----------------------|
| G195265 | 5/8/2019 | MCLUCAS | 5/8/2019 | 19. MEDICAL GENERAL |
| <i>Number</i> | <i>Received Date</i> | <i>Assigned To</i> | <i>Close Date</i> | <i>Classification</i> |
| 57-B | FEARER, NICHOLAS PAUL | | 0898434 | |
| <i>Housing</i> | <i>Name</i> | | <i>CID</i> | |

Grievance Response Summary

MR. FEARER, DUE TO YOUR COMPLAINT YOU CAN SUBMIT A MEDICAL REQUEST ON TELMATE TO BE SEEN BY THE DENTIST. IN THE EVENT OF AN EMERGENCY, NOTIFY AN OFFICER. THE OFFICER WILL CONTACT THE APPROPRIATE MEDICAL AUTHORITIES. ALSO, IF YOU DISAGREE WITH THE COURSE OF MEDICAL TREATMENT YOU ARE BEING PROVIDED, THE APPROPRIATE VENUE TO ADDRESS YOUR CONCERNS IS WITH JOHN PETER SMITH HOSPITAL PATIENT RELATIONS OR DR. JOHN MILLS, CORRECTIONAL HEALTH MEDICAL DIRECTOR.

JPS PATIENT RELATIONS
1500 S. MAIN ST.
FORT WORTH TX 76104

"Grievance procedures are described in the Inmate Handbook. In the event you have lost or misplaced your Inmate Handbook, you may request a replacement from the housing officer."

Tarrant County Sheriff's Office

Grievance Response Form

| | | | | |
|----------------|-----------------------|--------------------|-------------------|-----------------------|
| G195247 | 5/7/2019 | MCLUCAS | 5/7/2019 | 19. MEDICAL GENERAL |
| <i>Number</i> | <i>Received Date</i> | <i>Assigned To</i> | <i>Close Date</i> | <i>Classification</i> |
| 57-B | FEARER, NICHOLAS PAUL | | 0898434 | |
| <i>Housing</i> | <i>Name</i> | | <i>CID</i> | |

Grievance Response Summary

MR. FEARER, PER OUR CONVERSATION ON 05/07/19, YOU STATED YOU DO NOT NEED ANY MEDICAL ATTENTION. YOUR JUST DON'T TRUST JPS ANYMORE, YOU JUST WANT TO GO HOME, AND YOU NEED TO SEE MHMR. YOU WERE INFORMED AN MHMR REFERRAL WILL BE SUBMITTED ON YOUR BEHALF. IN THE EVENT OF AN EMERGENCY, NOTIFY AN OFFICER. THE OFFICER WILL CONTACT THE APPROPRIATE AUTHORITIES.

"Grievance procedures are described in the Inmate Handbook. In the event you have lost or misplaced your Inmate Handbook, you may request a replacement from the housing officer."

TARRANT COUNTY JAIL MAILROOM

NICHOLAS PAUL FEARDER (CID:0298434)59A

100 N. LAMAR ST

FORT WORTH, TX 76199

CLERK
2019 MAY 20 11 03:22
DEPUTY CLERK

UNITED STATES DISTRICT COURT
501 WEST 10th STREET, Room 3D
FORT WORTH, TX 76102

